IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 10237 of 2005

Between:

M/s. Odeon Group of Theatres, RTC Cross Roads,

Chikkadapally, Hyderabad. rep. by its partner,
Smt. Ameena Khatoon W/o. Zulfi Ravdjee, R/o.Hyderabad.

..... PETITIONER

AND

Entertainment Tax officer, Office of the Commercial Tax Officer,

Vidyanagar Circle, Secunderabad Division, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction preferably a writ in the nature of writ of Mandamus declaring the notice in Rc.No. ETO/05 dt.23-4-2005 as being arbitrary, illegal and violative of Article 14 of the Constitution of India and consequently direct the respondents not to take coercive steps against the petitioner in terms of the impugned notice and pass such other or orders as this Hon'ble court may deem fit and proper in the facts and circumstances of the case.

For the Petitioner: Mr.P.Venugopal, Advocate.

For the Respondent: Mr. K. Raji Reddy, Special Standing Counsel.

The Court made the following:

ORDER: (per Sri B. Sudershan Reddy, J)

Heard the learned counsel for the petitioner and Sri K. Raji Reddy, learned Special Standing Counsel appearing on behalf of the respondent and at their request, the matter is taken up for final disposal at the admission stage. Rule nisi.

The instant writ petition is directed against the show cause notice dated 23-04-2005 requiring the petitioner to file the objections, if any, along with the documentary evidence as to why the further proceedings should not be initiated for realization of the entertainment tax as well as the show tax, the details of which are mentioned in the show cause notice itself. The petitioner admittedly did not prefer any objections.

In this writ petition, Sri P. Venu Gopal, learned counsel appearing on behalf of the petitioner states that the petitioner does not dispute the liability to pay the entertainment tax as well as the show tax as demanded in the impugned show cause notice
dated 23-04-2005. All that the learned counsel submits is that the petitioner is not in

a position to pay the amounts at once and some reasonable time may be granted for payment of the entertainment tax as well as the show tax as demanded.

Learned Special Standing Counsel contend that the petitioner having collected the entertainment tax and the show tax from the cinema goers cannot be permitted to retain the said amount and ask for extension of time. It is not as if the petitioner is required to pay the said amount out of its own funds.

On a consideration of the facts and circumstances, we consider it appropriate to extend the time for payment of the entertainment tax as well as the show tax as demanded in the impugned show cause notice, up to 05-06-2005, subject to the condition of the petitioner depositing a sum of Rupees Five Lakhs within one week from today. The petitioner shall also file an undertaking before the respondent that the property owned by the it shall not be alienated or encumbered in any manner whatsoever until the required tax is paid pursuant to the impugned show cause notice. There shall be an order accordingly.

It is made clear that this order shall not be treated as a precedent for whatsoever purposes.

The Writ Petition is accordingly disposed of.

(B. Sudershan Reddy, J)

28-04-2005

(C.V. Ramulu, J)

ks

Note: Furnish Copy of the order by tomorrow.

B/O

To

1 Entertainment Tax officer, Office of the Commercial Tax Officer,

Vidyanagar Circle, Secunderabad Division, Hyderabad.

2. 1 CC to MR.RAVINDER REDDY.

3. Two CD copies.